APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
GRAYSAY, TAMARA L

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/845,826	HAM ET AL.
	Examiner	Art Unit	
	Tamara L. Graysay	3623	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 July 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *1 page*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

Drawings

1.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they

include the following reference character(s) not mentioned in the description: a detailed

description of Block 16 and Block 21 (FIG. 2). Although Block 16 is mentioned at page 8, reads

that Block 16 may be bypassed, but the detailed description (pages 9-10) does not describe Block

16.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office
action to avoid abandonment of the application. Any amended replacement drawing sheet should
include all of the figures appearing on the immediate prior version of the sheet, even if only one
figure is being amended. The figure or figure number of an amended drawing should not be
labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be
removed from the replacement sheet, and where necessary, the remaining figures must be
renumbered and appropriate changes made to the brief description of the several views of the
drawings for consistency. Additional replacement sheets may be necessary to show the
renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement
Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the
drawing figures. If the changes are not accepted by the examiner, the applicant will be notified
and informed of any required corrective action in the next Office action. The objection to the
drawings will not be held in abeyance.

Claim Objections

2.   Claims 4, 14, 31, and 41 are objected to under 37 CFR 1.75(c), as being of improper

dependent form for failing to further limit the subject matter of a previous claim. Applicant is

required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent

form, or rewrite the claim(s) in independent form.

NOTE: The test for a proper dependent claim under the fourth paragraph of 35 U.S.C. 112 is

whether the dependent claim includes every limitation of the claim from which it depends. See

MPEP § 608.01(n), II.

a.   Regarding claims 4 and 14, the process step of bypassing has omitted at least the

fourth step, "requiring the prospective laborer to demonstrate receipt of the project

training via the Internet to be a contract laborer." Further, the claim is somewhat

confusing because the recitation of "demonstration mastery" is not set forth in claim 1 or

11, but rather claims 3 and 13, which recite "requiring ... an examination to 'demonstrate

mastery' of the project training."

b.   Regarding claims 31 and 41, the system or apparatus claims omit limitation(s) of

the claims from which they depend including the host system "requiring the prospective

laborer to demonstrate receipt of the project training via the Internet to be a contract

laborer." Further, the claim is somewhat confusing because the recitation of

"demonstration mastery" is not set forth in claims 28 or 38, but rather claims 30 and 40,

which recite "requires ... an examination to 'demonstrate mastery' of the project

training."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   ·· Claims 1, 3, 4, 10, 11, 13, 14, 21, 22, 27, 28, 30, 31, 37, 38, 40, 41, and 48 are rejected

under 35 U.S.C. 103(a) as being unpatentable over Harrington (article The RFP process: how to

hire a third party) in view of Simon (article, Work: management: elance is the new freelance: an

electronic exchange makes the global marketplace a reality) and Cole-Gomolski (article, Match

people, jobs faster: software tracks skills, training of in-house staff and contractors).

     a.   Regarding claims 1, 3, 4, and 10, Harrington discloses a method for arranging for

labor including: preparing a project description, receiving a request for proposal (bid /

response), transmitting the project to the laborer (provider), and receiving a completed

project from the laborer (performance measurement systems). It is implicit in any

method for arranging for labor related to a project that a completed project is to be

received from the laborer by the buyer.

         Simon teaches a method for arranging temporary project labor comprising:

posting a project description on the Internet (P.1, L.21-22); receiving a request via the

Internet from a prospective laborer (provider) to be considered for the project (P.1, L.22);

transmitting a project package to the contract laborer via the Internet (e.g., providers all

over the world, P.1, L.20-33); and, receiving a completed project package from the

contract laborer via the Internet. Such an arrangement allows a company to become

bigger, by outsourcing, and keep the permanent staff smaller, thus reducing

administrative costs. Simon teaches arranging temporary labor for a project comprising

writing a speech (P.1, L.22; P.2, L.3).

         It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Harrington to include the steps of transmitting a project

via the Internet and receiving a completed project via the Internet, such as suggested by

Simon, in order to allow a company to become bigger, by outsourcing, and keep the

permanent staff smaller, thus reducing administrative costs of the company.

Cole-Gomolski teaches making training available, as broadly recited, and a

prospective laborer demonstrating receipt of training insofar as it includes tracking

employee and contractor training (P.40, C.4, ¶.4) and examination results (test results,

P.40, C.5, L.4-6) via the Internet in order to fill jobs faster.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to further modify the Harrington and Simon combination to include

making project training available to the prospective laborer, and requiring a laborer

(contractor) to demonstrate receipt of training by making training information available

over the Internet, such as taught by Cole-Gomolski, in order to fill jobs faster.

b.   Regarding claims 11, 13, 14, and 21, the examiner notes that the above

combination of Harrington, Simon, and Cole-Gomolski, as applied to claims 1, 3, 4, and

10, includes all of the features recited in claims 11, 13, 14, and 21, including payment

based upon receiving the completed project insofar as Cole-Gomolski teaches tracking

payroll information (P.40, C.5, L.4-6). However, the combination lacks authorization of

electronic payment.

It was known at the time of the invention that merely providing an automatic

means to replace a manual activity that accomplishes the same result is not sufficient to

distinguish over the prior art. In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA

1958). For example, simply automating the step of authorizing electronic payment gives

one just what one would expect from the manual step of paying a laborer (provider). In

other words there is no enhancement found in the claimed step. The claimed authorizing

step only provides automating the manual activity. The end result is the same as
compared to the manual method; however, a computer can simply track the payroll
information faster.

It would have been obvious to one of ordinary skill in the art at the time the
invention was made to include authorizing electronic payment because this would speed
up the process of paying laborers, which is purely known and disclosed in the Harrington,
Simon, and Cole-Gomolski combination, and the same result is obtained from automation
of that which is already known in the art.

c.   Regarding claims 22 and 27, Harrington discloses a method for arranging for
labor including: preparing a project description, receiving a request for proposal (bid /
response), transmitting the project to the laborer (provider), and receiving a completed
project from the laborer (performance measurement systems). It is implicit in any
method for arranging for labor related to a project that a completed project is to be
received from the laborer by the buyer.

Simon teaches a method for arranging temporary project labor comprising:
posting a project description on the Internet (P.1, L.21-22); receiving a request via the
Internet from a prospective laborer (provider) to be considered for the project (P.1, L.22);
transmitting a project package to the contract laborer via the Internet (e.g., providers all
over the world, P.1, L.20-33); and, receiving a completed project package from the
contract laborer via the Internet. Such an arrangement allows a company to become
bigger, by outsourcing, and keep the permanent staff smaller, thus reducing

administrative costs. Simon teaches arranging temporary labor for a project comprising

writing a speech (P.1, L.22; P.2, L.3).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Harrington to include the steps of transmitting a project

via the Internet and receiving a completed project via the Internet, such as suggested by

Simon, in order to allow a company to become bigger, by outsourcing, and keep the

permanent staff smaller, thus reducing administrative costs of the company.

Cole-Gomolski teaches making training available, as broadly recited, insofar as it

includes tracking employee and contractor training (P.40, C.4, ¶.4) via the Internet in

order to fill jobs faster.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to further modify the Harrington and Simon combination to include

making project training available to the prospective laborer over the Internet, such as

taught by Cole-Gomolski, in order to fill jobs faster.

Further, it was known at the time of the invention that merely providing an

automatic means to replace a manual activity that accomplishes the same result is not

sufficient to distinguish over the prior art. In re Venner, 262 F.2d 91, 95, 120 USPQ 193,

194 (CCPA 1958). For example, simply automating the step of authorizing electronic

payment gives one just what one would expect from the manual step of paying a laborer

(provider). In other words there is no enhancement found in the claimed step. The

claimed authorizing step only provides automating the manual activity. The end result is

the same as compared to the manual method; however, a computer can simply track the

payroll information faster.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to include authorizing electronic payment because this would speed

up the process of paying laborers, which is purely known and disclosed in the Harrington,

Simon, and Cole-Gomolski combination, and the same result is obtained from automation

of that which is already known in the art.

d.   Regarding claims 28, 38, and the dependent claims, the preamble recites a

"system" [for arranging temporary project labor] [using the Internet] comprising a host

system [connected to the Internet and storing information]. The specification discloses

the host system 31 as a "system" and nothing more, i.e., no specific computer hardware

and/or software; and the host system depicted in Figure 1 is simply a black box.

However, Figure 1 shows the host system 31 connected to the Internet backbone 34 via

an Internet service provider 32. The claims include various functions intended to be

performed via the Internet, e.g., transmitting the package via the Internet, and receiving a

completed package via the Internet, through an Internet service provider and Internet

backbone. Therefore, the claims have been interpreted as a computer system including

computer hardware and software.

e.   Further regarding claims 28, 30, 31, 37, 38, 40, 41, and 48, the system for

arranging using the Internet, is met insofar as the combination, as discussed above with

regard to claims 1, 3, 4, 10, 11, 13, 14, and 21, comprises a computer system including computer hardware and software.

4.   Claims 2, 12, 29, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington (article The RFP process: how to hire a third party), Simon (article, Work: management: elance is the new freelance: an electronic exchange makes the global marketplace a reality), and Cole-Gomolski (article, Match people, jobs faster: software tracks skills, training of in-house staff and contractors) as applied to claims 1 and 11, above, and further in view of Mann (article, The Internet can help meet employment challenges).

      a. Regarding claims 2 and 12, the combination lacks making project training available via the Internet.

      Mann (article, The Internet can help meet employment challenges) teaches an employer offering specialized Internet training for a laborer in the specialized field in order to include the Internet to resolve staffing challenges and to generate business.

      It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination to include specialized Internet training offered by the employer, such as taught by Mann, in order to resolve staffing challenges and to generate business.

      b. Regarding claims 29 and 39, the system for arranging using the Internet, is met insofar as the combination, as discussed above with regard to claims 2 and 12, comprises a computer system including computer hardware and software.

5.   Claims 5-7, 15-18, 23, 24, 32-34, and 42-45 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Harrington (article The RFP process: how to hire a third party), Simon (article,

Work: management: elance is the new freelance: an electronic exchange makes the global

marketplace a reality), and Cole-Gomolski (article, Match people, jobs faster: software tracks

skills, training of in-house staff and contractors) as applied to claim 1, 11, and 22, above, and

further in view of Loveland (US-6810383).

> a. Regarding claims 5, 6, 15, 17, and 23, Loveland (US-6810383) teaches verifying a
>
> completed project's compliance with quality standards, and denying project assignment
>
> when a laborer (service provider) has received poor quality ratings or complaints (C.15,
>
> L.38-45) in order to assign a project only to providers that have been pre-approved as
>
> qualified to complete the project.
>
> It would have been obvious to one of ordinary skill in the art at the time the
>
> invention was made to modify the Harrington, Simon, and Cole-Gomolski combination
>
> to include verifying a completed project's compliance with quality standards, and
>
> denying project assignment when a laborer has received poor quality ratings, such as
>
> taught by Loveland, in order to assign projects only to those laborers which have been
>
> pre-approved as qualified to complete the project.
>
>
> b. Regarding claims 7, 18, and 24, Loveland (US-6810383) teaches re-posting
>
> (transferred or reassigned, C.1, L.24-28, C.9, L.4-10) a project when a response is

unacceptable or the laborer fails to comply with system rules (specified time period for

example, C.9, L.4-10) in order to avoid a project that is incomplete or untimely.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the Harrington, Simon, and Cole-Gomolski combination

to include re-posting a project when a response is not received within a predetermined

period, such as taught by Loveland, in order to avoid a project that is incomplete or

untimely.

c. Regarding claim 16, the combination is silent as to the step of authorizing payment

after verifying that a quality standard has been met.

At the time of the invention, it was a well-known business principle that payment

for goods and services was made upon receipt of goods or services that met specified

quality standard(s). Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made, to include authorizing payment upon receipt of a

completed project that complies with quality standard(s).

d. Regarding claims 32-34, and 42-45, the system for arranging using the Internet, is

met insofar as the combination, as discussed above with regard to claims 5-7 and 15-18,

comprises a computer system including computer hardware and software.

6.   Claims 8, 9, 19, 20, 25, 26, 35, 36, 46 and 47 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Harrington (article The RFP process: how to hire a third party), Simon

(article, Work: management: elance is the new freelance: an electronic exchange makes the

global marketplace a reality), and Cole-Gomolski (article, Match people, jobs faster: software

tracks skills, training of in-house staff and contractors) as applied to claims 1, 11, and 22, above,

and further in view of Barani (article, Background investigations: how HR stays on the cutting

edge).

     a. Regarding claims 8, 9, 19, 20, 25, and 26, Barani (article, Background investigations:

how HR stays on the cutting edge) teaches verifying an employee's qualifications,

including a criminal background check before hiring a new employee in order to reduce

costs associated with and to avoid possible litigation related to past criminal activity of a

potential employee.

       It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the Harrington, Simon, and Cole-Gomolski combination

to verify laborer qualifications including lack of criminal record, such as taught by

Barani, in order to reduce costs associated with and to avoid possible litigation related to

past criminal activity of a potential employee.

     b. Regarding claims 35, 36, 46 and 47, the system for arranging using the Internet, is

met insofar as the combination, as discussed above with regard to claims 8, 9, 19 and 20,

comprises a computer system including computer hardware and software.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

- Arvey (article, Fairness in the selection of employees) teaches fair consideration of an

    employee's knowledge, skill, abilities, and work experiences; as well as the possibility of

    unfair consideration of age.

- Anonymous (article, On-line service sparks opportunities) teaches posting a project

    description (commercial and government bid specifications) on the Internet; receiving a

    request (bid) via the Internet from a prospective contractor to be considered; and, making

    training available to the contractor (col.2).

- Cronk (text, Section I.5 – A framework for IS outsourcing strategy in private and public

    sector contexts) teaches the use of electronic communications to reduce costs when

    outsourcing.

- Schmitz (article, Working together over ASPs bridge the gap) teaches the use of the

    Internet to review drawings (P.30, C.1, ¶.2); iterate on designs (P.30, C.1, ¶.2); and,

    producing, reviewing, and delivering engineering plots over the Internet thus eliminating

    document shipping costs and time delays (P.34, C.3, ¶.3).

- elance.com (webpage, Home page) teaches an Internet market for getting services and

    providing services in various categories.

- Lam (article, Decision support system for contractor pre-qualification - artificial neural

    network model) teaches a bidder pre-qualification, which includes disqualifying an entity

    requesting to be considered for a project, process rule – if a bidder's past performance is

poor quality, then the bidder is disqualified, i.e., denying request to be considered for the

project, in order to avoid another poor performance.

- Lauffer (US-6801899) teaches an online employment market where a company offers

   tests and transmits results to a server in order to maintain the status of a potential laborer.

   Further, Lauffer teaches authorizing electronic payment on behalf of the laborer (service

   provider, expert, cyber payment C.8, L.20-48) via the Internet based on the completed

   project (per-session payment scheme, C.8, L.20-48) in order to ensure timely project

   payment at the time of completion of the project.

- Gaur (article, IT-Specific career and service network zeroes in on technology skills

   crunch) teaches electronic training and assessment, project outsourcing marketplace, and

   project support.

- Casale (article, The outsourcing institute revolutionizes outsourcing procurement with

   outsourcing accelerator) teaches an electronic marketplace that comprises posting project

   description, receiving requests, and tools and resources for project reporting and

   relationship management. Module 5 includes tracking completion of projects.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tamara L. Graysay whose telephone number is (703) 305-1918.

The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tamara L. Graysa

Examiner

Art Unit 3623

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